



must advance some non-conclusory factual allegations that give rise to a plausible inference that the defendants engaged in a conspiracy. The Motion is DENIED as to Count IX (defamation), Count XII (defamation) and Count XIV (intentional infliction of emotional distress). These claims arise largely out of statements the alleged victim made to the police, a prosecutor, and the state court, all in the course of or preliminary to criminal proceedings. Under Massachusetts law, these statements are absolutely privileged. Jones v. Scotti, Civil Action No. 08-10583-LTS, 2011 WL 4381919, at \*9 (D. Mass. Sept. 13, 2011). Finally, the Motion is DENIED as to Count XVI (declaratory judgment) both because the claim fails in the absence of any other claim against the alleged victim and the count fails to plausibly state a claim. For the foregoing reasons, Dismukes' Motion for Leave, Doc. No. 44, is DENIED.

One further point bears mention. Counts IX, XII and XIV might arguably arise from statements made in the course of Brandeis disciplinary proceedings. As the Court reads the Second Amended Complaint, these claims arise only out of the privileged statements. Whether the victim made statements in that process and, if so, whether the privilege would apply to those statements presents a more complicated question not presently presented or resolved by this ruling.

SO ORDERED.

/s/ Leo T. Sorokin  
Leo T. Sorokin  
United States District Judge